

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JANET HALEY,

Plaintiff(s),

No. C 10-3856 PJH

v.

**ORDER RE MOTION FOR  
ADMINISTRATIVE RELIEF**

COHEN & STEERS CAPITAL  
MANAGEMENT, INC., et al.,

Defendant(s).

Before the court is plaintiff's motion for administrative relief in which she requests an extension of the deadline to respond to defendant Edlin's motion for summary judgment which was filed on December 2, 2011. Plaintiff's opposition is currently due on December 16, 2011 and the reply is due on December 23, 2011, with the hearing noticed for February 1, 2012, as required by this court's calendar. The pretrial schedule sets the fact discovery cutoff date at January 13, 2012, and the last day for dispositive motions at March 21, 2012. Accordingly, dispositive motions must be filed no later than February 15, 2012. Edlin's motion for summary judgment is thus early in the sense that it precedes both the close of fact discovery and the deadline for filing dispositive motions.

Plaintiff brings her motion pursuant to Civil L. R. 7-11 and Fed. R. Civ. P. 6(b), however, defendant is correct that once a summary judgment motion is filed, Fed. R. Civ. P. 56(d) controls. Defendant is also correct that plaintiff's showing falls short of what is required by Rule 56(d). However, because the motion for summary judgment was filed before the close of discovery, the court is inclined to exercise some leniency with regard to plaintiff's showing. Many parties wait until close to the end of the discovery period to conduct discovery. The reason for doing so is just as often a desire to conserve resources

1 until it is clear that the case will not resolve otherwise, as it is a lack of diligence or  
2 attention. To the extent that plaintiff has outstanding discovery which was timely  
3 propounded and calls for a response before the close of discovery but no sooner than  
4 required by the federal rules, or depositions reasonably noticed before the close of  
5 discovery, she should be able to complete that discovery before opposing defendant's  
6 motion.

7 However, it appears from plaintiff's motion that she may be seeking relief from the  
8 discovery limitations imposed by the federal rules and/or an extension of the discovery  
9 cutoff date. This order does not extend either. Additionally, the schedule proposed by  
10 plaintiff is unacceptable as it allows only one week between the reply brief and the hearing,  
11 when the local rules require two weeks.

12 Under the circumstances, the court finds that an extension of the opposition deadline  
13 to January 18, 2012 is warranted and the motion for administrative relief is GRANTED.  
14 The reply brief is due January 25, 2012. The hearing is continued to February 8, 2012.  
15 **IT IS SO ORDERED.**

16 Dated: December 13, 2011



PHYLLIS J. HAMILTON  
United States District Judge